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C O N F I D E N T I A L SECTION 01 OF 02 KUWAIT 000047

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E.O. 12958: DECL: 01/07/2013
TAGS: ECON EAIR PGOV EINV ETRD KU IZ
SUBJECT: ON EVE OF POTUS VISIT, PARLIAMENT SUDDENLY PASSES RAFT OF ECONOMIC LAWS AFTER YEARS OF DELAY

REF: A. 07 KUWAIT 1762
¶B. KUWAIT 0043
¶C. 06 KUWAIT 4561

Classified By: Charge D'Affaires Alan G. Misenheimer for Reasons 1.4 (b) and (d)

¶1. (C) Summary and Comment: Amidst rumors of parliamentary dissolution and following years of delay in bringing any significant economic reform legislation to a vote, Kuwait's parliament passed three important economic laws on January 9 to privatize Kuwait Airways, to control investment related to public properties (especially under Build-Operate-Transfer contracts), and to create public-private partnerships to own and operate customs facilities and warehouses near the Iraq border. This follows the passage of a long-awaited tax law on December 26. This sudden and unexpected wave of economic lawmaking marks a breakthrough in the legislative deadlock of the past two years.

¶2. (C) The passage of these laws shows that a growing number of MPs are ready to cooperate with the government in order to forestall an Amiri edict dissolving Parliament. MPs also hope to protect themselves against growing public discontent with their performance. These laws will also be seen as a triumph for PM Nasser Mohammed Al Sabah, whose reputation has suffered due to his inability to advance the GOK's legislative agenda. President Bush's impending visit certainly figured into the MPs' tactical calculations. Both the Build-Operate-Transfer law and the warehousing/customs law are favorable developments for U.S. interests, and warrant positive acknowledgment by the USG. End Summary and Comment.

Rare Display of Government-Parliament Unity

¶3. (C) On January 9, the parliament passed three significant and long-awaited economic laws. This follows the passage on December 26, by a vote of 36 to 17, of a tax law reducing the tax on foreign companies from 55 per cent to 15 per cent (Ref. A). The first new law, which privatizes sclerotic and loss-making Kuwait Airways, passed by a vote of 50 to 4. The second, which authorizes the creation of public-private partnerships related to the development of public properties, especially through the use of Build-Operate-Transfer (BOT) contracts, passed by 57 to 0. The third, which creates public-private partnerships to own and operate warehouses and

customs facilities near the Iraq border, passed by 43 to 8. The sudden passage of these laws is a watershed event for a parliament that, increasingly over the past year, has been preoccupied with political infighting and threats to grill ministers (Ref B).

¶4. (SBU) An editorial in the Arabic-language Al-Qabas called January 9 "a distinctive day in our parliamentary life." Prime Minister Nasser Al-Mohammad Al Sabah reportedly said, "Ratification of the laws reflects genuine cooperation between the two authorities (the government and parliament)." Leading opposition MP Ahmad Al-Saadoun told Al-Qabas, "We have eased tension between the two authorities by the ratification of these laws." Another local daily, Al-Jarida, ran the front-page headline, "Ratification of the Three Laws Keeps the Ghost of Dissolution Away." Opposition Islamist MP Mohammad Al-Bossairi said, "The three laws will pave the way for turning Kuwait into a financial center. They are our gift to the Amir." There is also speculation in the press and among some of our government contacts that a general privatization law will also be passed in the near term. Leaders of the various parliamentary blocs are scheduled to meet with the Amir on January 13 to discuss the way forward for the government and parliament.

Kuwait Airways Privatization

¶5. (SBU) Under the first law, state-owned Kuwait Airways Corporation (KAC), which has operated at a loss for 17 of the last 18 years and is expected to lose USD 35 million this year, will be transformed into a private company within the next two years after two independent international auditors

have valued the company's assets. Under the law, 35 per cent of the company will be sold to a "core investor," which will be the local or foreign company making the highest bid. Forty per cent will be sold to Kuwaiti citizens through an IPO. Government institutions will retain a 20 per cent stake, and the remaining five per cent will be distributed equally among current KAC employees. As a concession to populist MPs, the law requires the new company to retain current Kuwaiti employees for at least five years without reducing their pay. Kuwaiti employees who do not wish to remain can either elect an automatic transfer to another government job or retire with three years' severance pay. Forty-two per cent of the new company's staff must be Kuwaiti nationals. The minimum salary for Kuwaiti employees in the new company will be set by the government. The government reiterated its previously announced policy that Kuwait Airways will not purchase any new aircraft until the privatization is complete, although it reserves the option of leasing aircraft in the interim. KAC operates a fleet of 15 Airbus and 2 Boeing aircraft.

Public Properties (BOT) Law

¶6. (SBU) The second law establishes clear guidelines regarding the sale, lease, or transfer of state-owned land (about 95% of the total land area of Kuwait) to local or foreign investors to implement development projects. Specifically, the law governs Build-Operate-Transfer (BOT) and Build-Own-Operate (BOO) contracts, which have been suspended in Kuwait since the State Audit Bureau cited widespread irregularities in the awarding of contracts in November 2006 (Ref C). The law establishes a high commission for state properties and bans any other government institution from allocating state land to any project without the approval of the new commission. The law stipulates that new companies will be established to implement major projects on state land with a 40 per cent share sold in an auction to an investor, 50 per cent sold to Kuwaiti citizens in an IPO, and the remaining 10 per cent sold to the local or foreign company implementing the project. The law limits the term of

BOT contracts to 30 years with the exception of "special" projects, which can continue for up to 40 years. The passage of this law represents a significant opportunity for America project management, engineering, and construction companies. At the same time it will allow the Kuwaiti government to award major contracts for badly needed infrastructure projects.

Public-Private Warehousing and Customs Facilities
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¶7. (SBU) The third law authorizes the formation of one or more companies to establish and run warehouses and associated customs facilities near the Iraqi border. The law states that 26 per cent of each company will be sold to a "core" local or foreign company, 24 per cent to government institutions, and 50 per cent to Kuwaiti citizens in an IPO. Under the new law, an existing contract between the GOK and the major Kuwaiti logistics company and DOD contractor Agility may be canceled or renegotiated. New facilities built under this law would largely be used to support DOD contracts associated with Operation Iraqi Freedom.

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